UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,766	12/28/2000	Brian B. Egan	NTL-3.2.172/3666	8660

35437   7590   02/25/2005

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK, NY 10017

EXAMINER
HAN, CLEMENCE S

ART UNIT	PAPER NUMBER
2665	

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/750,766	EGAN ET AL.
	Examiner	Art Unit	
	Clemence Han	2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *08 October 2004*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-24* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-6,10-18 and 20-23* is/are rejected.

7) ☐ Claim(s) *7-9,19 and 24* is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The text of those sections of Title 35, U.S. Code not included in this action

can be found in a prior Office action.

2.   Claim 1-6, 10-18 and 20-23 are rejected under 35 U.S.C. 102(e) as being

anticipated by Kroll (US 6,700,895).

Regarding to claim 1, 14 and 20, Kroll teaches a method of voice

optimization in a packet switched network, comprising: initializing default

parameters for end-point devices on a network with respect to choice of preferred

CODEC, number of voice samples per packet, and jitter buffer size 210;

measuring performance parameters of a network 212-280; and evaluating whether

the measured performance parameters signify that a connection to the network is

below a desired level of operation 194 and, if so, adjusting the default parameters

for the end-point devices based on the evaluating 196.

Regarding to claim 2, 18 and 23, Kroll teaches the adjusting includes

performing functions that are selected from a group consisting of re-negotiating a

CODEC connection, re-setting of parameters for the packet size and re-setting the

jitter buffer 196.

Regarding to claim 3, 5, 11, 15 and 21, Kroll teaches the performance parameters being measured are selected from a group consisting of throughput, latency, packet loss, bandwidth, number of network hops to the end-point devices, round trip delay and any combination thereof 280.

Regarding to claim 4, 6, 16, 17 and 22, Kroll teaches the measuring is performed with at least one tool selected from a group consisting of a ping tool, a network trace tool and a packet loss measurement tool (Column 2 Line 36-39).

Regarding to claim 10, Kroll teaches measuring and evaluating existing performance parameters with respect to quality of connection 212-280, the initializing being based on the evaluating 196.

Regarding to claim 12, Kroll teaches evaluating the measured performance parameters with respect to quality of connection 212-280 and performing the adjusting as a result of the evaluating 196.

Regarding to claim 13, Kroll teaches the adjusting is carried out during transmission of media to the end-point devices (Column 6 Line 55-64).

Allowable Subject Matter

3.   Claim 7-9, 19 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4.   Applicant's arguments with respect to claim 1-24 have been considered but

are moot in view of the new ground(s) of rejection.

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

The following patents are cited to further show the state of the art with respect to

the invention in general.

U.S. Patent 6,452,950 to Ohlsson et al.

U.S. Patent 6,678,250 to Grabelsky et al.

U.S. Patent 6,747,999 to Grosberg et al.

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Clemence Han whose telephone number is

(571) 272-3158. The examiner can normally be reached on Monday-Thursday 7 -

5.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone

number for the organization where this application or proceeding is assigned is

703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR

only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system,

contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C. H.

Clemence Han
Examiner
Art Unit 2665
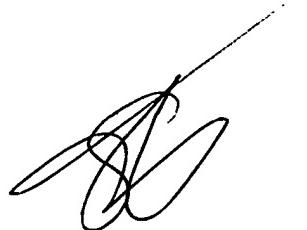
STEVEN NGUYEN
PRIMARY EXAMINER